STATE OF MICHIGAN

COURT OF APPEALS

In the Matter of B.L., M.L., and R.L., Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

LAURA MAE LARSON,

Respondent-Appellant,

and

ARTHUR LARSON,

Respondent.

UNPUBLISHED
April 29, 2003

No. 244137
Grand Traverse Circuit Court
Family Division
LC No. 02-000200-NA

Before: Whitbeck, C.J., and Cavanagh and Bandstra, JJ.

MEMORANDUM.

Appellant appeals as of right from the trial court's order terminating her parental rights to the minor children under MCL 712A.19b(3)(b)(ii), (g), and (j). We affirm.

Contrary to appellant's first argument, the trial court did not clearly err in finding that the statutory grounds for termination were established by clear and convincing evidence. MCR 5.974(I); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The evidence overwhelmingly established that appellant had failed to properly care for her children, MCL 712A.19b(3)(g), and that she knew or should have known that her husband was repeatedly sexually abusing their children, yet failed to take steps to prevent such abuse, MCL 712A.19b(3)(b)(ii). Petitioner presented credible statements made by the children that appellant had been informed of the abuse by at least one of her children and had even walked in on her husband victimizing her son. Further, there were countless signs of abuse, including M.L.'s problematic and painful bowel movements, blood on another child's underwear, observable genital warts on the children, the children's preoccupation with their private parts, and their failure to recognize personal boundaries while using the bathroom and dressing. There was also sufficient evidence to conclude that there was a reasonable likelihood that the children would suffer injury or abuse in the foreseeable future if placed in appellant's home. MCL

712A.19b(3)(j). All of the experts who testified before the court agreed that appellant suffered from an entrenched personality disorder that caused her to be passive and avoidant. Two experts testified that it would take at least two to three years of intensive therapy before appellant would have the tools necessary to protect her children. Appellant's own counselor testified that while appellant had made progress, she had not made enough progress. Thus, at the time of termination, respondent was not in a position to protect her children if they were returned to her care. Based upon this evidence, we cannot conclude that the trial court clearly erred in finding that statutory grounds for termination existed.

Appellant also argues that she was denied the effective assistance of counsel because her attorney failed to present the testimony of several witnesses. We disagree. This Court will not substitute its judgment for that of counsel regarding matters of trial strategy, and decisions as to what evidence to present and whether to call or question witnesses are presumed to be matters of trial strategy. *People v Rice (On Remand)*, 235 Mich App 429, 445; 597 NW2d 843 (1999); see also *In re Simon*, 171 Mich App 443, 447; 431 NW2d 71 (1988) (the principles of ineffective assistance of counsel developed in the criminal law are equally applicable to termination hearings). We have considered appellant's arguments and conclude that the failure to call the identified witnesses was a matter of trial strategy. Indeed, the witnesses contemplated by appellant would have been redundant and/or easily discredited. In any event, given these factors appellant has failed to show any prejudice stemming from her counsel's performance.

We affirm.

/s/ William C. Whitbeck
/s/ Mark J. Cavanagh
/s/ Richard A. Bandstra